

1 A. Pena

2 is that correct?

3 A. No, sir.

4 Q. You have received cash during 2007?

5 A. No, sir.

6 Q. So your testimony is that you have not
7 received cash in 2007?

8 A. Yes, sir.

9 Q. And you did receive cash during 2006
10 nine or ten times?

11 A. Yes, sir.

12 Q. How much cash did you receive on each
13 of those nine or ten occasions?

14 MR. FAILLACE: Objection. He
15 already answered.

16 Q. You can answer.

17 A. Between 10 and \$20 depending on the
18 amount of hours that they didn't pay me.
19 Sometimes I worked 12, 13 hours, and they just
20 forgot to put it on the check.

21 Q. After they paid you the cash, had you
22 been paid for all of your hours?

23 A. No, sir.

24 Q. What hours were you not paid for?

25 A. An hour every day. The one that they

1 A. Pena

2 say was a lunch break.

3 Q. Other than the lunch break that you
4 were not paid for, were there any other hours that
5 you were not paid for?

6 A. The ones I told you before. The one or
7 two hours that weren't put down.

8 Q. I understand. But your testimony is
9 that you got paid for the hours that were not put
10 down?

11 A. That's the 10 or \$20 I told you.

12 Q. So you were paid for those hours; isn't
13 that a fact?

14 A. Yes, sir. Yes, those hours, yes.

15 Q. So the only hours that you claim you
16 were not paid for is the lunch break hour?

17 A. Yes, sir.

18 Q. Do you punch a time clock?

19 A. Yes, sir.

20 Q. Have you ever let anyone else punch
21 your time card?

22 A. No, sir. Can't be done. There was no
23 one else. The other one is the one that relieves
24 you.

25 Q. By the way, which individual person

1 A. Pena

2 paid you the 10 to \$20 per cash?

3 A. I'm not sure exactly because the
4 supervisor would give me an envelope. I don't
5 know what was in the envelope or who put it in
6 there.

7 Q. Did the supervisor give you the cash
8 because you complained that you were not paid for
9 a certain time?

10 A. Yes, sir.

11 Q. When you finish work, do you punch your
12 time card out?

13 A. Of course. If not, they wouldn't pay
14 me.

15 Q. Have you ever worked at the garage
16 during 2007 after you punched your time clock out,
17 time card?

18 A. Yes, sir.

19 Q. This is during 2007?

20 A. No, no. Not 2007.

21 Q. So during 2007, you have never
22 performed any work after you punched your time
23 card out?

24 A. No, sir.

25 Q. In 2006, did you ever perform any work

1 A. Pena

2 after you punched your time card out?

3 A. No.

4 Q. During 2005, did you perform any work
5 after you punched your time card out?

6 A. I'm not sure if it was during 2004 or
7 2005. I went -- I worked my 12 hours at one
8 parking garage, and then I had to go to another
9 garage for another 12 hours to replace someone
10 that didn't show up. I worked a full day straight
11 that time.

12 Q. So your testimony is you worked 12
13 hours at one garage, and then you went to a second
14 garage to work another 12 hours; is that correct?

15 A. Yes, sir.

16 Q. How long did it take you to get from
17 the first garage to the second garage?

18 A. The supervisor himself took me. It was
19 about maybe five to ten minutes.

20 Q. Did you punch in at the second garage?

21 A. I don't remember if I did. I didn't
22 have my card with me, because I had the card at
23 the other garage. When he took me, I didn't have
24 the card with me.

25 Q. When you left the first garage, did you

1 A. Pena

2 punch out?

3 A. Yes. That's where I had it.

4 Q. Were you paid for the time you worked
5 at the second garage?

6 A. They paid me but not all.

7 Q. How many hours did they not pay you
8 for?

9 A. The overtime.

10 Q. Is it your testimony that you were paid
11 regular pay for all of the hours you worked at the
12 second garage?

13 A. Yes, sir.

14 Q. So what you were not paid was time and
15 a half for the hours at that second garage; is
16 that correct?

17 A. No, sir.

18 Q. What were you not paid for?

19 A. The extra hours. They only paid me
20 like it was a regular day.

21 Q. But you were paid your regular minimum
22 wage rate for all of those hours you worked at the
23 second garage?

24 MR. FAILLACE: Objection. He has
25 answered it twice.

1 A. Pena

2 MR. WALKER: It's unclear to me.

3 Q. Is that correct?

4 A. Yes, sir.

5 Q. How often did that happen that you
6 would go from one garage to the other garage?

7 A. I did that maybe two or three times.

8 Q. Other than those two or three times,
9 were you paid for all of the hours that you worked
10 by the company?

11 MR. FAILLACE: Objection. He has
12 already answered that question.

13 MR. WALKER: No, he hasn't.

14 MR. FAILLACE: Yes, he has. He
15 told you what hours he was paid.

16 Q. You can answer the question.

17 A. No, sir.

18 Q. Other than the two or three times when
19 you went to work in the second garage, were there
20 any other hours that you were not paid for? Other
21 than the cash payments?

22 A. Yes, sir. The lunch hour.

23 Q. Other than the lunch hour and other
24 than the two or three times that you worked at the
25 second garage, were you paid for all of the hours

1 A. Pena

2 that you worked by the company?

3 A. The City also states that after 10
4 hours of work, the company has to pay you one hour
5 more and they didn't pay that.

6 Q. Other than that and the lunch and the
7 two or three times, were there any other hours you
8 were not paid for?

9 A. If I would be able to say my sick days.

10 Q. What do you mean your sick days?

11 A. Days that I have had to go to the
12 doctor or one has to go to the doctor, or
13 something like that, or get sick or something.

14 (Recess taken from 10:32 a.m. to
15 10:48 a.m.)

16 Q. Mr. Pena, when we took our break, the
17 last question you answered is that you had said
18 you had not been paid for sick days; is that
19 correct?

20 A. I answered that because you asked me
21 what days I wasn't paid for. I don't know if
22 that's what -- I don't know if that's in the
23 politics.

24 Q. During 2007, how many sick days have
25 you taken?

1 A. Pena

2 A. None.

3 Q. Have you ever taken a sick day?

4 A. Never. I only suggested that because I
5 have heard about that in other companies. That's
6 why. It doesn't matter.

7 Q. Isn't it a fact that you have been paid
8 for sick days when you did not work?

9 A. Never. I have never had a sick day.

10 Q. Have you ever left your job to go to a
11 doctor?

12 A. No, sir.

13 Q. Have you ever taken any vacation days
14 during the time you have been employed by the
15 company?

16 A. Day off that they give me.

17 Q. Anything else?

18 A. 2004 when I was in Santo Domingo for
19 about a month.

20 Q. When in 2004 were you in Santo Domingo?

21 A. I don't remember exactly, but I think
22 it was during the summer.

23 Q. Since October of 2003, have you visited
24 Santo Domingo at any other time other than the
25 trip in 2004?

1 A. Pena

2 A. No, sir.

3 Q. Since October 2003, have you traveled
4 outside the United States?

5 A. No, sir.

6 Q. Have you taken any time off from your
7 job to visit any place in the United States
8 outside of New York City?

9 A. No, sir.

10 Q. Isn't it a fact since February of 2006
11 you have been paid for your lunch hour?

12 MR. FAILLACE: Objection. He
13 already answered.

14 MR. WALKER: No, he didn't. I
15 never asked that question.

16 MR. FAILLACE: You asked it
17 earlier, but go ahead. You can answer it
18 again.

19 A. Can you repeat the question?

20 Q. Isn't it a fact since February of 2006
21 the company has paid you for your lunch hour?

22 A. No, sir.

23 Q. Isn't it a fact that prior to February
24 of 2006 you received cash to pay for your lunch
25 hour?

1 A. Pena

2 A. No, sir.

3 Q. During 2007, you testified you received
4 your check on Friday; is that correct?

5 A. Yes, sir.

6 Q. At what time of day do you receive your
7 check?

8 A. Whatever hour the supervisor leaves it.

9 Q. Isn't it a fact it would be after four
10 p.m.?

11 A. I couldn't tell you. It's at the
12 office. I just go and look for it. I never see
13 him when he leaves.

14 Q. I understand. Isn't it a fact you
15 don't arrive at the garage until four p.m. to
16 start work?

17 A. I work there -- I arrive there at four
18 o'clock on the dot.

19 Q. So you get your check after you arrive
20 at four p.m.; isn't that correct?

21 A. I find it there, yes.

22 Q. Do you cash your check on the same day
23 that you receive it?

24 A. No, sir.

25 Q. Where do you cash your check?